

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	No. 3:14-CR-00023
VS.	:	
	:	Judge Mannion
EUDY GONZALES	:	
Defendant	:	Filed via ECF
	:	

SENTENCING MEMORANDUM

On July 10, 2014, the Defendant, Eudy Gonzales, plead guilty to one (1) count of Conspiracy to Distribute and Possess with Intent to Distribute heroin, in violation of Title 21, United States Code, Section 846. The Court directed the completion of a Pre-Sentence Report (“PSR”). The PSR was completed and disclosed to the parties. The PSR sets forth a base level of twenty-six (26) with a three (3) level reduction for acceptance of responsibility and reflects a criminal history category of III. After applying the reduction, the corresponding sentencing range is fifty-seven (57) to seventy-one (1) months.

Additionally, pursuant to the Government’s motion for a downward departure, the Defendant has the potential for an additional three (3) level reduction, based, in part, upon the recent passage of an amendment by the United States Sentencing Commission that lowers the base offense level in the Drug Quantity Table by two (2) levels. If such reductions are accepted and applied by the Court, the guideline sentencing range becomes forty-one (41) to fifty-one (51) months.

DEPARTURE PURSUANT TO 4A1.3(b)(1)

The Defendant requests that the Court accept and apply a downward departure of one (1) Criminal History Category pursuant to 4A1.3(b)(1). Specifically, the Defendant asks that the Court find that he is more appropriately placed in Criminal History Category II as opposed to Category III. Section 4A1.3(b)(1) provides that a downward departure may be warranted “if reliable information indicates that the defendant’s criminal history category substantially over-represents the seriousness of the defendant’s criminal history or the likelihood that the defendant will commit other crimes.”

Here, the Defendant is a Category III offender carrying five (5) criminal history points. However, three (3) of those five (5) points are the result of one (1) offense. In 2011, the Defendant was convicted of one (1) count of Homicide by Vehicle and Driving Under the Influence in Philadelphia County. This is the Defendant’s only criminal conviction prior to the instant offense. For this conviction, the Defendant was sentenced to a period of incarceration of two (2) to four (4) years followed by three (3) years of probation. Pursuant to Section 4A1.1, this conviction carries three (3) criminal history points because the period of imprisonment imposed exceeds one (1) year and one (1) month.

The Defendant maintains that this conviction substantially over-represents the seriousness of his prior criminal history. As noted, this is the Defendant’s only prior criminal conviction. At the time of such offense, the Defendant was twenty-one (21) years old and had gone out with a friend on the night in question. After imbibing, the Defendant made the tragic choice to drive, which resulted in an accident that claimed the life of his friend and passenger. While the Defendant’s actions were certainly criminal

and may have been foreseeable, he did not act maliciously or with the intent to harm another individual. Rather, the tragedy was the result of extremely poor judgment.

However, in exercising such judgment, the Defendant in no way intended the result.

Should the Court grant Defendant's request for a downward departure to Criminal History Category II, as well as apply the three (3) level reduction outlined in the Government's departure motion, the applicable guideline range would become thirty-seven (37) to forty-six (46) months.

Respectfully Submitted:

/s/Sandra M. Stepkovitch, Esquire
Attorney for Defendant

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DATE: October 2, 2014

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Defendant's Sentencing Memorandum was served upon the following via ECF.

Francis Sempa, Esquire
Assistant U.S. Attorney

Date: October 2, 2014

/s/Sandra M. Stepkovitch, Esquire
Attorney for Defendant

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